IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3089 OF 2006

Surendra Tukaram Malik. .. Petitioner.

vs.

Neha w/o. Vijay T. Malik. .. Respondent.

Mr. S.S. Jani for petitioner.

CORAM : A.P. DESHPANDE, J.

DATE : 30th November, 2006.

P.C.

. The present petitioner and the respondent are co-plaintiffs in RAE Suit No. 1027/2097 of 1996. During the pendency of the suit, an award came to be passed by the arbitrators and the plaintiff no. 1/petitioner claims that under the said award the petitioner has become absolute owner of the property and hence is entitled to withdraw the amount deposited by the tenants. It is further the contention of the petitioner that the respondent who is the co-plaintiff has no right to withdraw the amount deposited. The trial court rejected the application moved by the petitioner no. 1 by holding that the award is not registered and it cannot be held that the plaintiff no. 1 has become

the absolute owner. Aggrieved by the order passed by the trial court a revision is carried bearing Revision No. 247 of 2004 in the revisional court. The revisional court has, while dismissing the revision recorded the finding that on account of cropping up of the dispute between the plaintiff no. 1 and plaintiff no. 2 during the pendency of the suit, in regard to title of the property the application cannot be granted. Dispute about title to property, in between the plaintiffs no. 1 and 2, cannot be decided in these proceedings. The view taken by the revisional court is legal and proper holding that no dispute inter se co-plaintiffs can be decided in the present suit. Hence, no interference is called for. Writ petition is summarily dismissed.

(A.P. Deshpande, J.)